

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 97-6500

BILLY LEE LISENBY, JR.,

Plaintiff - Appellant,

versus

CHERAW CHRONICLE; OFFICER DEAVER; JOHN T. MAY-
FIELD; DOUGLAS CURTIS; NATE BURROUGHS,

Defendants - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Florence. David C. Norton, District Judge.
(CA-96-2580-4-18BE)

Submitted: June 19, 1997

Decided: June 30, 1997

Before WILKINS and MICHAEL, Circuit Judges, and BUTZNER, Senior
Circuit Judge.

Affirmed by unpublished per curiam opinion.

Billy Lee Lisenby, Jr., Appellant Pro Se. Douglas Curtis, Appel-
lee; L. Hunter Limbaugh, WILLCOX, MCLEOD, BUYCK & WILLIAMS, P.A.,
Florence, South Carolina; Michael R. Sullivan, HOWSER, NEWMAN &
BESLEY, Columbia, South Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Appellant appeals the district court's order denying relief on his 42 U.S.C. § 1983 (1994) complaint. We have reviewed the record and the district court's opinion accepting the magistrate judge's recommendation and find no reversible error in the denial of relief on Appellant's defamation claim. Accordingly, we affirm that portion of the appeal on the reasoning of the district court. Lisenby v. Cheraw Chronicle, No. CA-96-2580-4-18BE (D.S.C. Mar. 19, 1997).

Appellant also appeals the district court's order dismissing his claim of excessive force during arrest on res judicata grounds. Appellant's case was referred to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) (1994). The magistrate judge recommended that relief be denied and advised Appellant that failure to file timely objections to this recommendation could waive appellate review of a district court order based upon the recommendation. Despite this warning, Appellant failed to object to the magistrate judge's recommendation.

The timely filing of objections to a magistrate judge's recommendation is necessary to preserve appellate review of the substance of that recommendation when the parties have been warned that failure to object will waive appellate review. Wright v. Collins, 766 F.2d 841, 845-46 (4th Cir. 1985). See generally Thomas v. Arn, 474 U.S. 140 (1985). Appellant has waived appellate review by failing to file objections after receiving proper notice. Accordingly, we affirm the judgment of the district court denying relief on Appellant's excessive force claim. We deny Appellant's

motion to appoint counsel and dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED